

**THE UNITED STATES DISTRICT COURT, NORTHERN DISTRICT
OF ILLINOIS, EASTERN DIVISION**

MICHAEL RODGERS, MARLENE
SPENCER-RODGERS, AND MARK
SPENCER, by and Through Marlene Spencer-
Rodgers, his guardian Ad Litem,

Plaintiffs,

v.

JIMINEZ ALLEN, FRANK JONES,
GREGORY MOORE, CASSIUS PATES,
JACK BRIDSON, ANTHONY GATEWOOD,
MIGUEL HERERRA, TONY LUCIANO,
ZARROD BECK, KEVIN BARNETT, R.
COLLINS, C. O'NEAL, K. DAVIS, R.
BLASS, T. RAJCEVICH, FIRE CHIEF
HARVEY, and THE VILLAGE OF
BELLWOOD,

Defendants.

No. 05 C 3540

Judge William J. Hibbler

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

NOW COME the defendants, JIMENEZ ALLEN, FRANK JONES, GREGORY MOORE, CASSIUS PATES, JACK BRIDSON, ANTHONY GATEWOOD, TONY LUCIANO, ZARROD BECK, KEVIN BARNETT, R. COLLINS, C. O'NEAL, K. DAVIS, and R. BLASS, by and through their attorneys Ellen K. Emery, and Ancel, Glink, Diamond, Bush, DiCianni & Krafthefer, P.C., and, pursuant to Rule 56 of the Federal Rules of Civil Procedure, move for the entry of judgment in their favor and against the plaintiffs, Michael Rodgers, Marlene Spencer-Rodgers, and Mark Spencer, on the basis that there are no disputed material facts and that these Defendants are thus entitled to judgment as a matter of law. In support, defendants submit the following:

1. In this action, the Plaintiff, Michael Rodgers, seeks recovery of damages alleging that he was shot by Bellwood police officers and that he was beaten and kicked by Bellwood police officers. (Complaint, ¶¶40, 42).

2. In Count I of the Complaint, Plaintiff Michael Rodgers seeks recovery of damages against Bellwood police officers alleging that the above referred to force was excessive and also claims that the entry into his home not properly announced violated his rights secured by the Fourth Amendment, and seeks damages under 42 U.S.C. §1983. (Complaint).

3. Counts II, III, and IV of the Complaint, claiming false arrest, *Monell* liability, and pendent state claims for assault and battery, false arrest, and intentional infliction of emotional distress respectively, have all been dismissed. Only Count I of the Complaint remains in this case.

4. Defendants Miguel Herrera, T. Rajceвич, Fire Chief Harvey, and the Village of Bellwood have been dismissed from this case, either voluntarily or by order of this Court. Thirteen (13) defendants remain; all were Bellwood police officers alleged to have participated in the above referred to conduct.

5. On the undisputed facts, as more full set out in the accompanying Memorandum of Law in support of this Motion for Summary Judgment, the remaining defendants were either not present when any shooting or alleged beating occurred, or did not participate in any acts giving rise to liability.

WHEREFORE, the defendants, JIMENEZ ALLEN, FRANK JONES, GREGORY MOORE, CASSIUS PATES, JACK BRIDSON, ANTHONY GATEWOOD, TONY LUCIANO, ZARROD BECK, KEVIN BARNETT, R. COLLINS, C. O'NEAL, K. DAVIS, and R. BLASS,

pray that judgment be entered in their favor and against the Plaintiffs in accordance with the foregoing.

Respectfully submitted,

JIMENEZ ALLEN, FRANK JONES,
GREGORY MOORE, CASSIUS PATES,
JACK BRIDSON, ANTHONY GATEWOOD,
TONY LUCIANO, ZARROD BECK, KEVIN
BARNETT, R. COLLINS, C. O'NEAL, K.
DAVIS, R. BLASS, T. RAJCEVICH, FIRE
CHIEF HARVEY, and THE VILLAGE OF
BELLWOOD

By: s/ Ellen K. Emery
ELLEN K. EMERY

Ellen K. Emery
ANCEL, GLINK, DIAMOND, BUSH, DiCIANNI & KRAFTHEFER, P.C.
140 South Dearborn Street, Sixth Floor
Chicago, Illinois 60603
(312) 782-7606
(312) 782-0943 Fax

CERTIFICATE OF SERVICE

The undersigned, one of the attorneys of record herein, hereby certifies that on October 30, 2008, the foregoing **Defendants' Motion for Summary Judgment** was electronically filed with the Clerk of the U.S. District Court using the CM/ECF System, which will send notification of such filing to the following: Stephen C. Debboli at sdebboli@ssnlaw.com. and Peter J. Hickey, III at peterhickey3@earthlink.com.

s/ Ellen K. Emery

ELLEN K. EMERY, Attorney Bar # 6183693

One of the attorneys for Defendants

ANCEL, GLINK, DIAMOND, BUSH,
DICIANNI & KRAFTHEFER, P.C.

140 South Dearborn Street, Sixth Floor
Chicago, Illinois 60603

Telephone: (312) 782-7606

Facsimile: (312) 782-0943

E-Mail: eemery@ancelglink.com